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C O N F I D E N T I A L SECTION 01 OF 04 KABUL 001605

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E.O. 12958: DECL: 05/09/2017

TAGS: PREL PGOV PHUM IR AF

SUBJECT: AFGHAN PARLIAMENT FLEXES ITS MUSCLES: FM SPANTA
LOSES NO-CONFIDENCE VOTE, SUPREME COURT TO REVIEW DECISION

REF: A. KABUL 1594

1B. KABUL 1327

Classified By: Ambassador William B. Wood for reasons 1.4 (b) and (d)

SUMMARY

¶11. (C) The Wolesi Jirga held a no-confidence vote against Foreign Minister Spanta and Refugee Minister Akbar on May 10, the day after the ministers' "unsatisfactory" appearance before Parliament to answer questions about the more than 50,000 Afghans deported by Iran in recent weeks (Ref A). Akbar lost by an 11-vote margin. The vote on Spanta produced an ambiguous result when his opponents fell one vote short of those needed. There was debate on how two mismarked ballots would be counted, with a final decision deferred until May ¶12. During the May 12 session, Parliamentarians discussed the ballots in question for almost two hours, and then agreed to hold a new vote, which Spanta lost by margin of 16. Spanta's office and several Parliamentarians claim the deportee issue was used by Spanta's domestic and foreign opponents, including Iran (Ref B), as an excuse to get rid of him. The Afghan constitution does give Parliament authority to question ministers and hold no-confidence votes, but does not establish well-defined criteria and procedures. It does not say a no-confidence vote leads automatically to the minister's removal. President Karzai issued a statement on May 12 saying he was asking the Supreme Court to rule both on the constitutionality of Parliament's original action against Spanta and the legality of the second vote (see statement in para 10). Given that Karzai announced he will "respect" Parliament's action on Akbar, he appears to be accepting in principle the power of the Parliament to dismiss ministers when there is a legitimate question about their performance. While this represents a significant concession of authority to Parliament, Karzai is not willing to cede to it wide discretion to interpret the constitution as it wishes. He is using the Court to push back, insisting that constitutional requirements be followed. END SUMMARY.

Iran's Deportation of Afghans: Reason or Pretext

¶12. (C) Parliament called a no-confidence vote against Foreign Minister Spanta on May 10, the day after his appearance before the Lower House (Wolesi Jirga) to explain why he had not anticipated and prevented -- or at least kept Parliament informed -- of Iran's intention to force the return of the more than 52,000 undocumented or illegal economic Afghan immigrants who had been living in Iran (Ref A). Refugee Minister Akbar was also summoned to answer questions with Spanta on the deportee issue. No-confidence votes were held against both ministers on May 10 with Akbar losing by 11 votes, based on what is widely understood to be a weak performance on the politically sensitive deportee issue. The count for Spanta was inconclusive. His opponents fell one vote short, but a final decision was deferred until May 12 due to two mismarked ballots, which, if counted as 'no' would have allowed his opponents to prevail. After two hours of debate on the 12th, the Wolesi Jirga decided to settle the question by a second ballot, which Spanta lost by 16 votes (an increase of 17 clear "no" votes over the balloting on May 10).

¶13. (C) Spanta's performance before the Parliamentarians on May 9 had provided the catalyst for the no-confidence vote. Rather than answer the questions regarding why he had not anticipated and prevented the deportation of the large number of Afghans, Spanta became testy. Just before the no-confidence vote, when faced with additional questions, he told the Parliamentarians that "I need MPs to understand that the MFA was just established after the war, and it cannot do

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everything that society expects of it. We (the MFA) are under a lot of pressure as Iran's neighbor. Expelling Afghans from Iran is not about the refugees involved. It is a political game, and we do not have any authority to push the GOI into letting the Afghans remain in Iran. Expelling Afghans from Iran is not what it appears on the surface. There are other reasons behind the GOI's decision." A few MPs called Spanta a traitor, to which Spanta responded, "If you are not happy with me, then do not vote for me, and pick a Foreign Minister who will satisfy all of you. History will prove if I am traitor."

¶14. (C) Spanta called the Ambassador late on May 10 to brief him on the no-confidence vote and express appreciation for U.S. support. He highlighted the Iranian role in the move against him, noting Iranian displeasure at him on three counts: his refusal to accept Iran's proposal for a security agreement that would hamper U.S. military operations in Afghanistan; his "lack of cooperation" on water projects in western Afghanistan that Iran claims will deprive it of water; and the issue of Afghan refugees in Iran.

¶15. (C) Spanta's office told us that many MPs had been looking for an excuse to move against him. Characterized by some as a "communist-Maoist" (who, after 20 years in Germany can be more accurately described as a secular academic), Spanta enjoys little support among the traditional religious, business and jihadist communities in Afghanistan. A native of Herat, he also reportedly angered the Iranians by refusing to agree to demands made during his recent trip to Tehran (Ref B). His staff acknowledge his domestic enemies but highlight foreign interests ("Iran and others") as actively encouraging (including in Parliament) a move against the ForMin. Several MPs told Poloff that they were not surprised the no-confidence vote had been called. Some MPs receive financial backing from Iran (and/or Pakistan's ISI) and for months had been looking for a pretext to boot Spanta out of office, based on his recent criticism of Iran's and Pakistan's involvement in Afghan affairs. Other MPs noted Spanta's domestic enemies. A few other MPs speculated that Pashtuns in Parliament have also been wanting to get rid of

Spanta (a Tajik) for a while.

Some Parliamentarians' Unease with the Vote

¶16. (C) Several MPs expressed unhappiness with the no-confidence vote. MP Fawzia Koofi blamed members' concern with ensuring that payments "from foreign sponsors" did not dry up. MP Abbas blamed personal interests. MP Katawazi said that the MPs were more concerned with their personal finances than the well-being and future of the country.

How the Action will be Seen by the International Community

¶17. (C) The Ambassador spoke briefly to Speaker Qanooni on May 10. Underlining that he fully respected the Parliament's rights under the Constitution, he also flagged that the removal of the Foreign Minister would increase confusion in the international community regarding Afghanistan at a time when Afghanistan does not need to send any more confusing signals. Colleagues in the international community, including the German DCM and UNAMA, agree that Iran was a factor in fueling domestic opposition to the reform-minded Spanta.

Constitution Not Clear: Karzai Requests Supreme Court Review

¶18. (C) The Afghan constitution (Article 92) provides for a no-confidence vote by Parliament (based on "well founded

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reasons"), but is not clear about the consequences. The vote must pass with a simple majority of all members of the assembly, thus 125 (of 248) "no" votes are required for a successful no-confidence vote. Such a vote presumably retracts the Parliament's endorsement of the minister's appointment (as required in the constitution), but the document is silent on whether the minister is automatically removed from office or if the President has some discretion in the matter. Shortly after the second vote, Minister Spanta's Senior Advisor, Davood Moradian, told PolCounselor the Minister was prepared to fight and had gone immediately to meet with Karzai. He was focusing on the "illegality" of the second vote. NSA Rassoul (who had hoped to be tapped as ForMin instead of Spanta) shared with DCM and UN SRSG Koenigs that Karzai did plan to refer the case to the Supreme Court. President Karzai subsequently issued a statement (para 10) confirming he had asked the Supreme Court to "interpret and clarify" both whether there was a sound basis for the original vote (i.e., "can it be justified on an issue that has no direct linkage to his work?") and whether the second vote was consistent with the law. Karzai's statement said he "respected" Parliament's decision in regard to Refugee Minister Akbar, who faced a clean "no" vote and is generally considered to be ineffectual and an obstacle to progress.

¶19. (C) COMMENT: Given Karzai's willingness to "respect" Parliament's decision on Minister Akbar, the President seems to be (selectively) willing to accept the principle of Parliament's power to force ministers' dismissal, but he is not willing to give Parliament a free rein on the issue. The President's decision to refer Spanta's case to the Supreme Court for clarification suggests that he wants to set a precedent limiting Parliament's discretion, while avoiding a direct challenge to the Parliament and Speaker Qanooni, one of his chief rivals. While the Supreme Court may take some time to decide, with Spanta remaining in office for the interim, bets are not on the Foreign Minister remaining in place for the long-term. End Comment

¶10. (U) Begin Text of Karzai Statement:

Statement by the Office of the President Regarding the No-Confidence Vote to the Minister of Foreign Affairs by the Parliament

Arg, Kabul) Completion of the various branches of the Afghan State is an important sign of political development that our beloved country has achieved in the last five years.

In this direction, the Lower House of the Parliament decided to inquire from the Minister of Refugee Affairs and also from the Minister of Foreign Affairs in regard to the forced return of our oppressed and dear compatriots by the Islamic Republic of Iran and later conduct a no-confidence vote.

Although the Minister for Refugee Affairs is an honest and patriotic individual and has made a lot of efforts to address the problems of the returnees, the President respects the decision of the Lower House in regard to the no-confidence vote to the Minister, considering the direct linkage of his Ministry's work to the issue.

In regard to the no-confidence vote to the Minister of Foreign Affairs, the President, considering the Minister's continued efforts to prevent the forced return of the Afghan refugees from Iran, is seeking interpretation and clarification from the Supreme Court on two specific matters:

¶11. Can the no-confidence vote to the Minister of Foreign Affairs be justified on an issue that has no direct linkage with his work? Does the Constitution provide anything explicit on this matter?

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¶12. Clarification and interpretation of the Constitution in regard to the two rounds of no-confidence voting to the Minister of Foreign Affairs. The Supreme Court of the Islamic Republic of Afghanistan is requested to clarify the issue of the two-round confidence vote based on the provisions of the Constitution and to explain which round is in conformity with the law, particularly in reference to the modus operandi of the Lower House in regard to the annulled ballots in the past.

Therefore, the President will take a decision in regard to the Minister of Foreign Affairs once the decision is received from the Supreme Court as the authorized institution to interpret the Constitution.

Consequently, until the decision is made by the Supreme Court, the Minister of Foreign Affairs will continue his duties in a normal way. End Text
WOOD